

PUBLIC ACCOUNTS COMMITTEE

1953-54

EIGHTH REPORT

[DISPOSAL OF TYRES AND TUBES]



PARLIAMENT SECRETARIAT

NEW DELHI

July, 1953.

Composition of the Public Accounts Committee, 1953-54

Shri B. Das—Chairman.

MEMBERS

2. Shri Ranbir Singh Chaudhuri.
3. Shri Hari Vinayak Pataskar.
4. Dr. Mono Mohon Das.
5. Shri Tribhuan Narayan Singh.
6. Shri M. L. Dwivedi.
7. Pandit Munishwar Dutt Upadhyay.
8. Prof. Shriman Narayan Agarwal.
9. Shri Shree Narayan Das.
10. Shri B. Ramachandra Reddi.
11. Shri Uma Charan Patnaik.
12. Pandit Krishna Chandra Sharma.
13. Shri K. M. Vallatharas.
14. Shri V. P. Nayar.
15. Shri G. D. Soman.

SECRETARIAT

Shri M. N. Kaul—Secretary.

Shri S. L. Shakdher—Joint Secretary.

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INTRODUCTION

I, the Chairman of the Public Accounts Committee having been authorised by the Committee to submit the report on their behalf, present this Eighth Report on the 'Disposal of Tyres and Tubes'.

2. The Public Accounts Committee, at their meeting held on the 10th September, 1952, appointed a sub-Committee to investigate into the case relating to the disposal of tyres and tubes referred to in Para. 24(g) of the Audit Report (Civil), 1951 which had resulted in a loss of about Rs. 18 lakhs to the Government of India.

The Report of the sub-Committee which is appended herewith was considered and approved by the Public Accounts Committee at their meetings held on the 13th and 14th July, 1953 and should be treated as the Report of the Public Accounts Committee.

3. The Committee, in drawing attention to Para. 18 of the Report of the sub-Committee, observe that the Director-General, Supplies and Disposals followed an extra-ordinary procedure in entering into a contract with Messrs. Vijay Corporation, whereas the tender for the purchase of goods was in the name of Messrs. Premier Suppliers, Ltd. which had been accepted. The Committee understand that this action was taken by the Director-General, Supplies and Disposals in contravention of the existing rules. The Committee consider that Government should take serious notice of cases in which it comes to light that the contracts in favour of the firms nominated by the successful tenderers have been or are being accepted by the Officers concerned without prior approval of Government.

The Committee also suggest that early steps should be taken to issue appropriate instructions to the Officers concerned dealing with contracts so that public money is not lost by such irregular transfer of contracts.

4. A statement showing the summary of the recommendations is given at the end.

NEW DELHI;
The 4th August, 1953.

B. DAS,
CHAIRMAN,
PUBLIC ACCOUNTS COMMITTEE.

**REPORT OF THE SUB-COMMITTEE
ON THE
DISPOSAL OF TYRES AND TUBES**

I

INTRODUCTION

I, the Chairman of the sub-Committee of the Public Accounts Committee, having been authorised by the sub-Committee, present this Report on their behalf on the 'Disposal of Tyres and Tubes' to the Public Accounts Committee.

2. At the meeting of the Public Accounts Committee held on the 10th September, 1952, a sub-Committee consisting of the following Members of the Committee was appointed to investigate into the case relating to the disposal of tyres and tubes referred to in Para. 24(g) of the Audit Report (Civil), 1951 which had resulted in a loss of about Rs. 18 lakhs to the Government of India:—

- (1) Shri T. N. Singh—Chairman.
- (2) Acharya S. N. Agarwal—Member.
- (3) Shri B. Ramachandra Reddi—Member.

3. The sub-Committee held three sittings. They examined the representatives of the Ministries of Works, Housing and Supply and of Finance (I. & C. Division), the ex-Joint Secretary, Ministry of Finance (I. & C. Division) and ex-Director General, Supplies and Disposals who had been associated with this case at the time of final settlement. The sub-Committee were informed that the three principal Officers who had dealt with this case in the pre-partition days viz., Mr. A. MacFarquhar, Director-General, Disposals, Mr. Hasnie, Joint Financial Adviser (Disposals) and Mr. Feldman, Director, U.S.T. had opted and left for Pakistan.

4. The sub-Committee place on record their appreciation of the valuable assistance given to them in the course of their examination of the Accounts relating to this transaction by the Comptroller and Auditor-General of India and his Officers and Secretary, Joint Secretary, Parliament Secretariat and their staff.

T. N. SINGH,
CHAIRMAN,

Dated the 27th June, 1953.

SUB-COMMITTEE OF THE
PUBLIC ACCOUNTS COMMITTEE.

II

Introductory 5. Para. 24(g) of the Audit Report on the Appropriation Accounts (Civil), 1949-50 disclosed a loss of Rs. 17,64,335 to Government due to non-enforcement of the terms of the contract for the sale of U.S. surplus 1,70,000 tyres and 1,20,000 tubes of different sizes lying at Calcutta and Assam entered into with Messrs. Vijay Corporation, Calcutta.

A brief history of the case.

6. During September, 1946, the Director-General, Disposals advertised for sale the above lot of tyres and tubes without any Reserve Price. In the tender, it was stated that preference would be given to quotations for the entire quantity of tyres and tubes. The highest tender which quoted Rs. 65 per tyre and Rs. 10 per tube was that of Messrs. Premier Suppliers, Ltd., Delhi. On their application, the name of Messrs. Vijay Corporation was substituted in their place. This offer which was for the entire lot was accepted by the Director-General, Disposals rejecting two higher offers for a part of the lot. Since the price payable was very large (*viz.*, Rs. 1,22,50,000), M/s. Vijay Corporation asked for and were given the right to make payment by instalments. According to the letter of sale, the clearance of all the stock was to be completed by the 31st March, 1947, priority in off-take being given to the Assam stock which was to be removed by the 15th January, 1947. A ground rent of Rs. 10,000 per month was to be charged for any storage space occupied after the end of February, 1947. As usual, this sale was subject to the General Conditions of Contract (*Form Con.* 117).

7. The tenderers were required to deposit 10 per cent. of the tendered value by way of earnest money which, in terms of the tender, as well as according to law, was liable to forfeiture, in the event of the tenderer resiling from or not complying with the terms of the contract. The firm accordingly deposited an amount of Rs. 12 lakhs.

8. Against the first instalment of Rs. 30,62,500 due to be paid by the 16th December, 1946, the firm deposited only Rs. 15,00,000 on the 17th December, 1946. The firm was

allowed to pay the balance within a further period of seven days, under legal advice, but without obtaining the sanction of the competent Disposals authority and concurrence of the Financial Adviser in writing. It has, however, been stated that their verbal approval was obtained. The second instalment of Rs. 49,00,000 was due on the 15th January, 1947 but extension upto the 31st January, 1947 was granted with the concurrence of the Director-General, Disposals and the Financial Adviser concerned. On a representation made by the firm, these terms were, without obtaining the sanction of the competent Disposals authority and the concurrence of the Ministry of Finance in writing further relaxed to allow them to pay a portion only (Rs. 44 lakhs) by the 31st January, 1947 and the balance of Rs. 5,00,000 by the 5th February, 1947. A sum of Rs. 5,00,000 was actually paid on the 7th February, 1947 and the balance of Rs. 44 lakhs by the 15th February, 1947. The delay, though small, was not brought to the notice of the competent authorities for condonation as it was deemed insignificant in view of the extent of the amount involved.

9. The condition to give priority in off-take to the Assam stock which was to be removed by the 15th January, 1947 was not adhered to by the firm or by the Disposals authority. On the 24th January, 1947, the stock-holder in Assam telegraphed saying that the purchaser had not removed the stocks upto the specified date. On the 30th January, 1947, Mr. Munro, then Deputy Director-General (Disposals) wrote to Mr. Rigby, O.S.D., Disposals in Assam, requesting him to give Mr. Menon of Messrs. Vijay Corporation all facilities to remove the stocks. On the 12th February, 1947 Mr. Menon wrote saying that the Railways and Waterways Transport were completely closed for booking, and he requested that the firm should be allowed to take delivery of goods from the Calcutta Depot till such time as the booking from Assam reopened.

On the 8th March, 1947, the firm wrote saying that they were unable to make a physical counting of the number of tyres and tubes lying in Assam as they saw a huge quantity of about 20/25,000 scrap tyres heaped in the different places in the Depot, and most of them were mere rubber pieces which could only be used for melting purposes. It may be mentioned in this connection that

Messrs. Vijay Corporation had sent a telegram on the 1st December, 1946, a day earlier than the date fixed for the public opening of the tenders, increasing the tendered rate from Rs. 65 to Rs. 70 per tyre. It is significant to note that this higher offer was made by them after due inspection of the stock in Assam. Immediately on receipt of the firm's letter, an enquiry was addressed to the O.S.D. Disposals, Assam, and he was asked to report on the contents of the letter dated the 8th March, 1947 from Messrs. Vijay Corporation. He gave the number of tyres as being 25,000 to 30,000. He said that most of the tyres were unserviceable or very nearly so and he agreed that all the tyres should be classed as rubber scrap. Mr. Rigby's report was forwarded to Mr. Munro, and he was asked to hold an on-the-spot inquiry. He too recommended that 'the stocks lying in Raidang Depot be classified as scrap and should be sold as such'. This recommendation was not acceptable to the Ministry of Finance and they asked for further justification. While the matter was still under consideration, proceedings for Partition of the country commenced on the 3rd June, 1947 and the principal Officers dealing with the case, Messrs. MacFarquhar, Hasnie and Feldman opted and left for Pakistan.

10. When things were settling down and before such justification could be furnished and a decision taken, a fire occurred in the Raidang Depot on the 13th September, 1947 and some 25,000 tyres and 3,000 tubes were destroyed. The Depot was under the administrative control of the Defence Department. A Court of Inquiry consisting of three Officers was held to inquire into the circumstances in which the fire broke out. The opinion of the Court was that the fire had destroyed 25,000 tyres and 4,000 tubes; that it was started deliberately by the guards or by some other interested party with the connivance of the guards, and that the motive behind this sabotage could not be definitely stated. They made out a case that the cause of starting the fire might be to cover a theft or an unwillingness on the part of the purchaser to take delivery of the stocks. These findings were, however, not accepted by the Commander who held that 25,000 tyres and 4,000 tubes had been destroyed, but that there was no evidence to justify the statement that the fire had been started by the guards.

or with their connivance, or that it might have been started with the object of covering some theft.

The legal opinion was that, whatever the cause, the loss by fire was the responsibility of the purchaser, and that this followed from clause 3 of the Conditions of Sale which was based on Section 20 of the Indian Sale of Goods Act. The firm was accordingly directed on the 28th April, 1948 to deposit the sum of Rs. 30,92,200 representing the value of the estimated quantity of stores not removed by them, including the value of the stores destroyed by fire and ground rent upto the end of May, 1948, at Rs. 10,000 per mensem and to remove the stock by the 30th May, 1948 failing which Government would enforce their rights without further notice. The firm, however, did not comply with the direction and, accordingly, the sale was cancelled in July, 1948 at their risk and expense and their earnest money deposit of Rs. 12,00,000 was forfeited.

11. On a further representation made by the firm to the effect that the Chinese Government was allowed to exchange some tyres in the lot reserved for them at the time of sale, the case was reconsidered and the sale reinstated. It was agreed that the value of the tyres and tubes destroyed by fire amounting to Rs. 12,65,000 should be written off by Government *ex-gratia* although the firm was not entitled to this concession as of right. The firm was allowed a credit of Rs. 1,64,445 on account of the difference between the price at which the tyres were sold to the Government of China, namely, Rs. 113-7-0 each, and the price paid by the firm i.e., Rs. 65 each on the 3,395 tyres which that Government was allowed to exchange as the firm was considered to be legally entitled to it. Some consideration was given by Government for the poor quality of the stock in Assam and it was decided to finalise the deal after realising Rs. 3,00,000 only in addition to the amount of Rs. 79,62,500 already paid by the firm and adjusting the earnest money deposit of Rs. 12,00,000 towards the sale value. The firm was allowed to remove the stock by the 30th June, 1949. Against the sum of Rs. 1,12,26,835 due to Government as value of 1,57,333 tyres and 72,019 tubes actually in stock amounting to Rs. 1,09,46,835 and

ground rent for the period from March, 1947 to June, 1949 amounting to Rs. 2,80,000, only a sum of Rs. 94,62,500 was actually realised after allowing all the above concessions outside the actual contractual obligations. There had thus been a loss of Rs. 17,64,335 to Government due to non-enforcement of the terms of the contract. Against this loss, the credit for Rs. 1,64,445 may be set off as this amount has already been recovered from the Chinese Government for the tyres sold to them.

12. It has been stated by the Ministry of Works, Housing and Supply that 'the case was dealt with at the proper level at all stages and the final decision to arrive at a compromise with the firm was taken by the then Minister for Industries and Supplies. No particular officer (now in service) can be held responsible for the happenings which unfortunately resulted in a loss to Government'.

13. The sub-Committee regret to observe that despite the stipulation laid down in the letter of sale that the Assam stocks were to be removed by the 15th January, 1947, the firm was allowed to take delivery of 20,000 tyres and 20,000

Loss by fire in Assam Depot. tubes of the total value of Rs. 15 lakhs from the Calcutta stock. Further, the firm failed to take delivery of 20,833 tyres and a like number of tubes from the Assam stock of the total value of Rs. 15,62,500 against the sale release order issued in their favour on the 6th January, 1947. The sub-Committee find that while issuing the subsequent release order, the Director-General, Disposals did not stipulate that the firm should remove the Assam stock first and no warning to that effect was also given to them. The sub-Committee note that the non-availability of transport facilities was not pleaded by the firm before the 12th February, 1947 though the stocks should have been removed according to the contract by the 15th January, 1947.

14. It is unsatisfactory that things should have been allowed to remain unsettled for more than six months till a fire occurred in the Raidang Depot on the 13th September, 1947 resulting in the destruction of some 25,000 tyres and 3,000 tubes.

The sub-Committee observe that the fire took place in the above Depot just two or three days before the impending visit of the Government's representative in the mid-September, 1947. Anyway, the fire was fortuitous from

the point of view of the firm. From the evidence placed before them it cannot be conclusively stated that there was any deliberate attempt to set fire to the stock as the findings of the Court of Enquiry set up to investigate into causes of fire etc. are at variance with those of the local Police authorities. It would be relevant to quote below the extracts from the opinion of the Court as also the findings of the Police:

"Opinion of the Court

* * * * *

3. That the motive behind this sabotage cannot be definitely stated. The cause of starting the fire may be to cover up a theft or unwillingness on the part of the purchaser to take delivery of the goods."

Whereas the report of the Police authorities disclosed that:—

* * * * *

Under the circumstances the chance of dry straws and other such things catching fire from thrown-out match stick or stump of a cigarette or 'Bidi' cannot be ruled out".

15. The sub-Committee observe that in the present case the firm concerned viz., Messrs. Vijay Corporation employed unfair tactics with a view to marking time and asking for repeated extensions for the removal of stocks. Ultimately, they represented for relief being given to them for the stock destroyed by fire in the Raidang Depot, Assam. They also note that the firm took shelter under a technical flaw in the contract having been executed "For Director-General of Disposals" instead of in the name of the "Governor-General in Council" and forced the Government to arrive at a settlement.

16. After examining the case in all its aspects, the sub-Committee have come to the following conclusions:—

(1) Extensions of time-limits were given easily and *Conclusions* without proper sanction for the lifting of the stocks by Messrs. Vijay Corporation.

- (2) At no stage was any serious attempt made to give effect to the clause relating to prior removal of Assam stock as stipulated in the contract.
- (3) Messrs. Vijay Corporation do not appear to have been serious about the removal of Assam stocks.
- (4) Almost the entire loss on this transaction is traceable to the failure to dispose of Assam stock in time as provided in the contract.
- (5) The contract was not properly drawn up and contained some legal flaws.
- (6) The action of the Disposals authorities in disposing of certain stock to China further complicated the legal position.
- (7) The fire at Raidang occurred in suspicious circumstances and it appears to have been very beneficial to Messrs. Vijay Corporation.
- (8) The conduct of Messrs. Vijay Corporation has been rather unsatisfactory and Government should consider advisability of taking measures to protect itself in such cases.

17. The sub-Committee desired to know whether the possibility of splitting up the stocks of tyres and tubes in question into sizeable lots with a view to attract more bidders was considered by the then Director-General, Disposals. In this particular case, the representative of

~~Splitting up of big contracts into sizeable lots.~~ the Ministry stated that the considerations which seemed to have weighed with the Director-General, Disposals were that if the tyres and tubes were sold to several parties, there might be a clamour for delivery of stocks from one place or the other and there might also be difficulties of giving a choice of sizes of tyres and tubes and as all the sizes that were available were not generally saleable in the market, Government would have been left with a great number of tyres and tubes of odd sizes for which it would have been difficult to find any buyers. The Secretary, Ministry of Works, Housing and Supply, however, agreed that normally in cases of big disposals it would be desirable to split up the sales into sizeable lots. This method should normally fetch better prices and should also protect Government from having to deal with only one man

who might prove difficult afterwards. In order, therefore, to prevent such losses being caused to the Exchequer in future and to ensure the best return for the disposal of Government stores, the sub-Committee recommend that all contracts involving the sale of goods worth lakhs of rupees should be split up into convenient lots at different places and separate tenders for each lot should be invited. Such a course, the sub-Committee consider, would be more advantageous to Government as any element of competition between two or three bidders would result in better terms being secured.

18. The sub-Committee note that the Director-General, Disposals did not verify the *bona fides* of the firm, viz., Messrs. Vijay Corporation before accepting their name in place of the successful tenderer, the Premier Suppliers, Ltd., Delhi. When the sub-Committee pursued this point with the representative of the Ministry, they were informed that in the case of Disposals stores where cash was realised in advance of the deliveries, no such enquiries were instituted. The sub-Committee would, however, suggest that in the case of big contracts like the one under report, Government should invariably insist upon the institution of detailed enquiries regarding the antecedents and financial standing of the firms tendering for the Disposals goods. They also suggest that Government should consider the desirability of black-listing contractors with bad record on the 'Disposals' side also as is being done on the 'Purchase' side.

**Verification
of the an-
tecedents
of the buy-
ing firms.**

19. While discussing the question of write-off of the value of tyres and tubes destroyed by fire amounting to Rs. 12,65,000, the sub-Committee enquired whether any maximum monetary limit for sanctioning a write-off by the Officers at various levels had been fixed by Government and whether cases involving write-offs beyond a certain limit were put up before the Cabinet for approval. The sub-Committee were informed that the write-off was sanctioned by the administrative Ministry in consultation with the Ministry of Finance and when both the Ministries agreed to the proposed write-off, regardless of the status of Officers in the Ministry of Finance and the administrative Ministry who have agreed to such write-off, it implied that

**Write-off of
irrecover-
able dues.**

the Government of India had sanctioned it. The sub-Committee, however, consider that in order to ensure that sanctions to write-off of losses of stores, cash etc. are accorded at appropriate levels and also to safeguard the interest of the Public Exchequer, a definite procedure should be laid down specifying the limits upto which the Officers at various levels in the Ministry of Finance and the administrative Ministry shall be competent to write-off losses within the overall limit fixed for the purpose. Approval of the Cabinet may be prescribed for the write-off of losses beyond a certain limit, say, Rs. 5 lakhs.

Appendix I

SUMMARY OF THE RECOMMENDATIONS OF THE EIGHTH REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE

Serial No.	Para. of the Report	Ministry concerned	Recommendations
1	17	<u>Works, Housing and Supply</u> <u>All other Ministries</u>	In order to ensure the best return for the disposal of Government stores, all contracts involving the sale of goods worth lakhs of rupees should be split up into sizeable and convenient lots at different places and separate tenders for each lot should be invited.
2	18	Do.	(i) In case of big contracts involving lakhs of rupees, Government should invariably insist upon the institution of detailed enquiries regarding the antecedents and financial standing of the firms tendering for the Disposals goods. (ii) Government should consider the desirability of blacklisting contractors with bad record on the 'Disposals' side also as is being done on the 'Purchase' side.
3	19	<u>Finance</u> <u>Cabinet Secretariat</u> <u>All other Ministries</u>	In order to ensure that sanctions to the write-off of losses of stores, cash etc. are accorded at appropriate levels and also to safeguard the interest of the Public Exchequer, a definite procedure should be laid down specifying the limits upto which the Officers at various levels in the Ministry of Finance and the administrative Ministry shall be competent to write-off losses within the overall limit fixed for the purpose. Approval of the Cabinet may be prescribed for the write-off of losses beyond a certain limit, say, Rs. 5 lakhs.
4	Para. 3 of the Introduction to the Report of the Public Accounts Committee.	<u>Works, Housing and Supply</u> <u>All other Ministries</u>	Government should take serious notice of cases in which it comes to light that contract in favour of a firm in place of the one whose tender has been accepted has been entered into by an Officer at the instance of the successful tenderer, without prior approval of Government. Early steps should be taken to issue appropriate instructions to Officers concerned dealing with contracts so that public money is not lost by such irregular transfer of contracts.

